

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of

Number Resource Optimization	)	CC Docket No. 99-200
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	WT Docket No. 01-184
Pine Belt PCS, Inc. and Pine Belt Cellular, Inc.	)	
Petition for Waiver of Sections 20.12(c) and	)	
52.31(a)(2) of the Commission's Rules	)	

**To: Chief, Wireless Telecommunications Bureau**

**AMENDED PETITION FOR WAIVER**

Pine Belt PCS, Inc. and Pine Belt Cellular, Inc. (collectively, "Pine Belt Wireless"), by its attorneys, and pursuant to Section 1.3 and 1.925 of the Commission's Rules,<sup>1</sup> hereby amend the pending request for waiver or temporary extension<sup>2</sup> of the requirement for Commercial Mobile Radio Service ("CMRS") providers to support roaming for customers with pooled or ported numbers, as set forth in Section 20.12(c) and 52.31(a)(2) of the Commission's Rules ("pooled/ported requirement").<sup>3</sup> An additional six month extension of the deadline, *i.e.*, until

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<sup>1</sup> 47 C.F.R. §§ 1.3 and 1.925.

<sup>2</sup> See Pine Belt PCS, Inc. and Pine Belt Cellular, Inc. Petition for Waiver of Sections 20.12(c) and 52.31(a)(2) of the Commission's Rules, CC Docket Nos. 99-200 & 95-116; WT Docket No. 01-184, filed Nov. 22, 2002 ("Petition"). The Petition remains pending before the Commission. In its Petition, Pine Belt Wireless committed to providing the Commission with bi-monthly status reports during the temporary extension period. This amended Petition serves as the company's fifth bi-monthly status report

<sup>3</sup> 47 C.F.R. § 20.12(c); 52.31(a)(2); See *In the Matter of Verizon Wireless' Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation and Telephone Number Portability: Memorandum Opinion and Order*, WT Docket No. 01-184, CC Docket No. 95-116 at para. 31 (rel. July 26, 2002) ("Verizon Order") (Commission extending the deadline for CMRS carriers to implement local number portability ("LNP") until November 24, 2003 but maintaining requirement that all CMRS carriers must support roaming nationwide for customers with pooled numbers by November 24, 2002).

May 23, 2004, is appropriate in light of the specific circumstances facing Pine Belt Wireless.<sup>4</sup>

Because good cause exists for grant of the instant waiver request, it should be granted.

## **I. Background**

Pine Belt Wireless provides cellular service in the Alabama Rural Service Area 3B2 market and PCS service in the Selma, Alabama Basic Trading Area. Pine Belt Wireless has chosen to implement CDMA technology in its network and has selected Lucent Networks as its infrastructure vendor. Currently, Pine Belt Wireless has Lucent release 5E-13 installed in its network.

## **II. Waiver is Warranted**

The relevant standard for grant of a waiver of the Commission's Rules is that "in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest"<sup>5</sup> Pine Belt Wireless's waiver request meets this standard.

### **A. Waiver is Appropriate in Light of the Circumstances**

Pine Belt Wireless is faced with unusual circumstances that make extension of the compliance deadline necessary. Pine Belt Wireless's service area is outside of the largest 100

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<sup>4</sup> In its Petition, Pine Belt Wireless anticipated completing the necessary upgrades to support roamers with pooled or ported numbers before the November 24, 2003 deadline for CMRS carriers to implement LNP ("Wireless LNP Deadline"). As demonstrated herein, Pine Belt Wireless will require additional time beyond the Wireless LNP Deadline and provides additional assurances that it will minimize any problems that may arise in providing service to roamers with pooled or ported numbers, a matter on which the Commission has already sought comment. *See Wireless Telecommunications Bureau Seeks Comment on Petitions for Extension of the Deadline for Support of Roaming by Wireless End-Users with Ported or Pooled Numbers: Public Notice*, CC Docket Nos. 99-200 & 95-200; WT Docket No. 01-184; DA 03-148 (rel. Jan. 16, 2003) (Commission seeking comment on the Petition and noting that the Petition seeks waiver of the "deadline for support of roaming by users with pooled or ported numbers").

<sup>5</sup> 47 C.F.R. § 1.925(b)(3)(ii).

largest Metropolitan Statistical Areas (“MSAs”). Accordingly, it was not required to participate in thousands block number pooling by November 24, 2002 compliance deadline.<sup>6</sup> To date, the company has not received a request to implement number portability; therefore, it is currently not required to implement LNP.<sup>7</sup> It is required, however, to support roaming for roamers with pooled or ported numbers.<sup>8</sup> As the Commission has noted, the technology chosen by wireless industry to support roaming of customers with pooled or ported numbers is the “MIN/MDN Standard.”<sup>9</sup> This standard requires the separation of the Mobile Directory Number (“MDN”) from the Mobile Identification Number (“MIN”) and is extremely costly, especially for small carriers.<sup>10</sup> These costly upgrades impact Pine Belt Wireless, a small rural carrier, in a much greater degree than mid-size or larger carriers due to the small customer base over which the

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<sup>6</sup> See *In the Matter of Numbering Resource Optimization: Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200*, CC Docket Nos. 99-200, 96-98, 95-116 (rel. Dec. 28, 2001) at para. 19 - 20 (Commission finding that requiring carriers serving areas outside of the 100 largest MSAs to participate in number pooling would be unreasonable, unnecessary and would impose disproportionate costs on the carriers).

<sup>7</sup> See Verizon Order at para. 31 (requiring CMRS carriers located within the largest 100 MSAs that have received a request to implement LNP by November 24, 2003 and all other carriers to implement LNP “within six months after receiving the request or within six months after November 24, 2003, whichever is later”).

<sup>8</sup> See Verizon Order at para. 31; Letter to William J. Sill, Esq., Wilkinson Barker Knauer, LLP From James D. Schlichting, Deputy Bureau Chief, Wireless Telecommunications Bureau, DA 03-165, rel. Jan. 17, 2003 at 1 (“all covered CMRS providers must support nationwide roaming by CMRS customers with ported or pooled numbers by November 24, 2002”).

<sup>9</sup> *In the Matter of Cellular Telecommunications Industry Association’s Petition for Forbearance From Commercial Mobile Radio Service Number Portability Obligations and Telephone Number Portability: Memorandum Opinion and Order*, 14 FCC Rcd 3092, 3105-06 (1999).

<sup>10</sup> See Verizon Order at paras. 24 (noting that the MIN/MDN standard is “particularly complex for wireless carriers”); Comments of the Rural Cellular Association in CC Docket No. 99-200, filed November 6, 2001 at 6-7 (demonstrating that the MIN/MDN separation is extremely costly, especially for small carriers).

costs can be distributed. These costs are an even greater burden for Pine Belt Wireless since it must upgrade both hardware and software in its switch from the 5E-13 to the 5E-16 software load to comply with the MIN/MDN standard.

For the past three years, Pine Belt Wireless has been diligently seeking funding for necessary software upgrades to comply with a variety of Commission mandates. In April 2003, Pine Belt Wireless reported that the company had received notice of approval for a Rural Utilities Service ("RUS") loan and that approval of the loan was contingent on several factors.<sup>11</sup> These factors included the submission of various guarantees, financial information and other documents, internal reorganization of the company and satisfaction of several financial and organizational benchmarks.<sup>12</sup> The company hereby reports that as of the date of this filing, it has submitted all necessary documentation to RUS, including information regarding the switch upgrade, and has completed a major transaction necessary for the internal reorganization.<sup>13</sup> Even if RUS were to immediately approve the loan, however, Pine Belt Wireless would be unable to be in compliance by November 23, 2003. According to RUS procedures, RUS must now review and approve the information regarding the switch upgrade before Lucent can issue a finalized

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<sup>11</sup> See Pine Belt PCS, Inc. and Pine Belt Cellular, Inc., Ex Parte Presentation - Update of Second Bi-Monthly Status Report Pursuant to Petition for Waiver, CC Docket Nos. 99-200 & 95-116; WT Docket No. 01-184, filed April 25, 2003.

<sup>12</sup> See Pine Belt PCS, Inc. and Pine Belt Cellular, Inc., Ex Parte Presentation – Bi-Monthly Status Report Pursuant to Petition for Waiver, CC Docket Nos. 99-200 & 95-116; WT Docket No. 01-184, filed May 22, 2003.

<sup>13</sup> In fulfillment of one of the conditions of the loan, Pine Belt Wireless filed an application to assign the PCS license held by Pine Belt PCS, Inc. to Pine Belt Cellular, Inc. The Commission conditionally granted the application and on June 30, 2003, the application was consummated. See Notification of Consummation of Assignment of Authorization (FCC Form 603) filed July 9, 2003 (file number 0001377035). Additionally, on June 30, 2003, articles of merger were filed with the Secretary of the State of Alabama providing for the merger of Pine Belt PCS, Inc. into Pine Belt Cellular, Inc.

price for the upgrade.<sup>14</sup> Next, the contract between the company and Lucent must be finalized and approved by RUS. Depending upon the satisfaction of other loan conditions, a purchase order then can be issued, funds released and installation of the equipment completed and tested. Because these steps are contingent upon the approval by RUS, the company is unable, at this time, to estimate when the upgrades will be completed but anticipates that it will take place prior to May 23, 2004.<sup>15</sup>

In the absence of funding to upgrade its switch, Pine Belt Wireless also explored alternatives to the MIN/MDN standard. The Commission has recognized that alternatives to the MIN/MDN standard have been proposed<sup>16</sup> and determined that such alternatives may be used to comply with the pooling requirement so long as valid call back numbers are provided to Public Safety Answering Points.<sup>17</sup> Pine Belt Wireless and its advisors investigated several alternatives, but have reluctantly concluded that no viable alternative to the MIN/MDN standard is available for Pine Belt Wireless's system. Accordingly, Pine Belt Wireless seeks additional time to obtain funding and purchase, install and test the necessary switch enhancements, which it projects to be

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<sup>14</sup> Pine Belt Wireless estimates the capital expenditure to be well in excess of \$500,000. *See* Petition at 3.

<sup>15</sup> *See FCC Proposes Current Spectrum Regulations in Order to Promote Wireless Services in Rural America: News Release*, WT Docket No. 03-202 (rel. Sept. 10, 2003) Statement of Commissioner Jonathan S. Adelstein ("It is so worthwhile to explore how the Commission can support the wireless applications of [the RUS] program, as I truly believe that spectrum-based services offer great potential to Rural America.")

<sup>16</sup> *See* Verizon Order at para 32 & n.117 citing Ex Parte Comments from Missouri RSA No. 7 Limited Partnership, Illinois Valley Cellular Partnerships, Public Service Cellular, Farmers Cellular Telephone, and Northwest Missouri Cellular Limited Partnership (filed Mar. 26, 2002).

<sup>17</sup> *See* Verizon Order at para. 32, n.118.

eight months from filing this amended petition. During this temporary extension period, the company will continue to report its progress bi-monthly.<sup>18</sup>

**B. Disruption will be Minimal During Temporary Extension**

Pine Belt Wireless has been coordinating with the four PSAPs in its area where it provides Phase I service regarding the inability to provide a correct call-back number from roamers on its system that have pooled or ported numbers. As part of this coordination, a procedure has been established whereby the company is notified within 24 hours after a PSAP has experienced difficulty with handling a call that is associated with Pine Belt Wireless' network. This includes notification of problems associated with calling back a roamer after a call has been dropped. Pine Belt Wireless reports that since filing the Petition, the company has not received any notifications from the four PSAPs of problems relating to calling back roamers. The company hereby commits to maintaining this procedure during the extended temporary period and to report any notifications from the PSAPs regarding problems encountered with roamers with pooled or ported numbers in its bi-monthly reports.

**III. Grant of the Waiver Would Further the Public Interest**

Pine Belt Wireless is not requesting a blanket waiver of the Commission's requirement for CMRS carriers to support roamers with pooled or ported numbers but, rather, is requesting a waiver only to the extent that the requirement can be accomplished in a technically and economically feasible way. Accordingly, Pine Belt Wireless seeks an extension of the deadline, until May 23, 2004, to allow it to implement the necessary upgrades. Pine Belt Wireless will continue to provide the Commission with status reports at two-month intervals during the

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<sup>18</sup> To the extent necessary, Pine Belt Wireless also requests waiver or temporary extension of the Commission's requirement for carriers to deliver valid call back numbers to Public Safety Answering Points in the areas where it is providing Phase I enhanced 911 service. See 47 C.F.R. § 20.18(d).

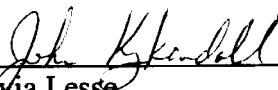
temporary extension period. Also, during this period, Pine Belt Wireless will continue to coordinate with its roaming partners to minimize any problems that may arise in providing service to roamers with pooled numbers.

#### **IV. Conclusion**

Grant of this temporary extension request is appropriate in light of the circumstances and will cause minimal disruption to roamers with pooled or ported numbers. To advance the public interest, Pine Belt Wireless will coordinate with PSAPs and roaming partners and provide the Commission with periodic status reports during the temporary extension period. Accordingly, the Commission should grant the instant waiver request.

Respectfully submitted,

**PINE BELT PCS, INC.  
PINE BELT CELLULAR, INC.**

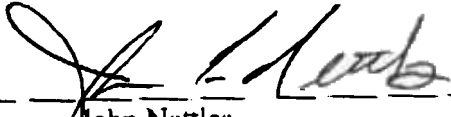
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September 23, 2003

## DECLARATION OF JOHN NETTLES

I, John Nettles, President of Pine Belt Cellular, Inc. and Pine Belt PCS, Inc., do hereby declare under penalty of perjury that I have read the foregoing Amended Petition for Waiver and that the facts stated therein are true and correct, to the best of my knowledge, information and belief.

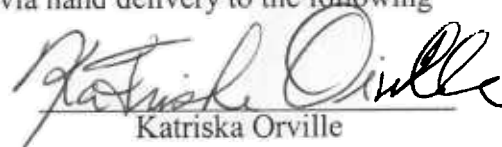
  
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John Nettles

Date: 9/23/2003



## **CERTIFICATE OF SERVICE**

I, Katriska Orville, of Kraskin, Lesse & Cosson, LLC, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Amended Petition for Waiver" was served on this 23<sup>rd</sup> day of September 2003, via hand delivery to the following parties:



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